

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

RECEIVED
JAN 11 1998
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)	
)	
1998 Biennial Regulatory Review—)	
Petition for Section 11 Biennial Review)	CC Docket No. 98-177
filed by SBC Communications, Inc.,)	
Southwestern Bell Telephone Company,)	
Pacific Bell and Nevada Bell)	

COMMENTS OF AMERITECH

I. INTRODUCTION

Ameritech¹ submits these comments in response to the Commission's Notice of Proposed Rulemaking² issued in response to the petition of SBC Communications, Inc. (SBC) for Biennial Review pursuant to section 11 of the Communications Act of 1934, as amended ("the Act")³.

Section 11 of the Act requires the Commission to conduct a biennial review of all regulations that apply to telecommunications service providers. As part of the required review, the Commission, in its various Section 11 NPRMs has proposed to eliminate several rules "that no longer seem to serve any useful purpose," "to move some rules to eliminate confusion," to delete duplicative rules "in a manner that does not affect any of the substantive requirements currently placed on carriers," and to revise rules to

¹ Ameritech means: Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company and Wisconsin Bell, Inc.

² See Notice of Proposed Rulemaking ("NPRM") in this proceeding released November 24, 1998.

³ See 47 U.S.C. § 161.

No. of Copies rec'd
List ABCDE

049

eliminate the need for granting waivers which are routinely granted in any event.⁴ While Ameritech does not dispute the propriety of -- or the real need for -- a "clean-up" review of this type, Ameritech suggests that the Commission's proposals have not gone far enough to satisfy the statutory requirement.

Ameritech generally agrees with SBC's position that the Biennial Review process has not fulfilled the Congressional mandate, and urges approval of the proposals set forth in its Petition either in this proceeding or others. As the Commission itself has noted, the statute requires that the Commission's biennial review should "determine whether any of these regulations are no longer necessary in the public interest as a result of meaningful economic competition."⁵ It is clear, then, that Congress had something much more in mind than a clerical examination of the Commission's regulations. Again, Ameritech does not dispute the fact that duplicative rules should be eliminated, confusing rules should be clarified, and rules that no longer have applicability because of the passage of time or changes in administrative technology should be deleted. However, it is clear that, in light of the "pro-competitive, de-regulatory national policy framework" adopted in the Telecommunications Act of 1996,⁶ Congress intended the biennial review to be a more fundamental policy examination into whether specific regulations were necessary in light of the state of competition in the telecommunications marketplace. To date, most of the Commission's Section 11 NPRMs have not undertaken that task.

⁴ See, e.g., *In the Matter of 1998 Biennial Regulatory Review -- Part 61 of the Commission's Rules and Related Tariffing Requirements*, CC Docket No. 98-131, Notice of Proposed Rulemaking, FCC 98-164 (released July 24, 1998) ("NPRM") at ¶2.

⁵ *Id.* at ¶1.

⁶ Conference Report 104-458 at 1.

Ameritech agrees with the analytical framework developed by staff for use in evaluating the review of Commission regulations.⁷ However, it should be applied to *each* rule during the course of the biennial review proceedings.

Following are comments on certain specific proposals set forth in the NPRM.

II. THE RULES WHICH ARE THE SUBJECT OF THE SBC PROPOSALS IDENTIFIED IN THE NPRM NO LONGER SERVE THE PUBLIC INTEREST, AND SHOULD BE MODIFIED OR ELIMINATED.

A. Rate-of-Return Prescription (47 C.F.R. § 65.101)

Ameritech agrees that carriers under price cap regulation should not be subjected to rate-of-return prescription. To the extent that the current rule may require prescription for such carriers, it should be modified.

B. Cash Working Capital Studies (47 C.F.R. § 65.820(d))

Part 65.820(d) and (e) should be modified because they create an unnecessary burden on Class A carriers. The current methodology employs a costly lead-lag study of interstate revenue and expense items over a representative period of time. In order to complete a lead-lag study, Class A carriers must devote considerable resources for approximately one year. The resulting supporting documentation is so extensive that it must be stored off-site in an archive facility. The total cost to complete a Cash Working Capital study far exceeds any benefit relating to the accuracy of the interstate rate base.

Exhibit A of SBC's petition offers several alternatives, any of which would greatly reduce this burden. Carriers should be allowed:

⁷ See NPRM, ¶ 4.

- (a) the option of either continuing to recover cash working capital or foregoing recovery;
- (b) the choice of methods to support recovery of cash working capital which are less burdensome than the lead-lag method; and
- (c) the option of freezing the amount of cash working capital.

C. Detariffing of Services Subject to Competition

SBC has asked the Commission to detariff special access services, direct trunked transport, operator services, directory assistance, and interexchange services because they are competitive. On this issue, Ameritech has consistently asked the Commission to quickly adopt a pricing flexibility framework that reflects changes in the competitive environment. In that regard, Ameritech would refer the Commission to its comments and reply comments filed in response to the Commission's request to refresh the record in its Access Reform Proceeding⁸ and to its comments in response to the Commission's Biennial Review Proceeding on Part 61 of its rules.⁹

Ameritech's specific recommendation for such a framework is set forth as Attachments M and N to its October 26, 1998 comments refreshing the record in the Access Reform Docket. For transport and switching services, Ameritech's proposal contemplates 3 phases and competitive triggers for each phase. For access-related directory assistance (as opposed to local-exchange-related directory assistance provided to end users) and for (intraLATA) interexchange services, Ameritech has proposed more

⁸ See Public Notice, FCC 98-256 (rel. October 5, 1998) CC Docket Nos. 96-262, 94-1, 97-250, RM-9210.

⁹ See Notice of Proposed Rulemaking, FCC 98-164 (rel. July 24, 1998) CC Docket No. 98-131.

expedited relief. Directory assistance services should be immediately removed from rate regulation since the service is fully competitive. Excell Agent Services, TelTrust, Rochester Telephone, GTE, and Metro One all provide carriers with alternatives to Ameritech's directory assistance product line. As of last October, the market share of alternative providers had increased from 30% to 60% over the past two years.

For interexchange services (intraLATA, interstate services for BOCs), there are numerous providers (essentially all IXC's serving the calling party's area). Moreover, as of February 8, 1999, toll dialing parity (i.e., presubscription -- "1+" dialing) becomes effective for all such traffic in BOC serving areas.¹⁰ At that time, no credible argument can be made that any BOCs have any monopoly position with respect to these services. There will, therefore, be no reason not to regulate these services the same way that the interstate services of nondominant interexchange carriers are regulated.

D. Part 64 Cost Allocation Manual (CAM) Simplifications

Ameritech agrees with SBC that Part 64 CAM requirements are too complex, given that price cap regulation adequately guards against ratepayer subsidization of nonregulated activities by severing the link between costs and rates. Ameritech urges the Commission to adopt the fifteen CAM-related simplification proposals contained in the Exhibit D of SBC's petition, all of which will reduce unnecessary regulatory burdens without adversely impacting ratepayers.

E. Affiliate Transaction Rules

As with the Part 64 CAM process, the Commission's affiliate transaction rules

¹⁰ See 47 C.F.R. §51.211

should be simplified for price cap carriers. Rather than repeating previous recommendations for simplifying these rules, Ameritech incorporates by reference its Comments filed in the Biennial Review Accounting NPRM.¹¹ Also incorporated by reference are the Petitions for Reconsideration of Ameritech, SBC, GTE and Cincinnati Bell of the "Accounting Safeguards Order".¹²

Whether in this proceeding or in those just cited, the Commission should carry out its statutory duty to simplify affiliate transaction rules for price cap carriers.

F. Wireless Radio Rules

Ameritech has no comment on SBC's general proposals, to the extent that they may go beyond the proposed changes set out in WT Dockets 98-20 and 98-100. Ameritech's Comments filed in those proceedings are incorporated by reference herein.

III. CONCLUSION

There is ample evidence in the SBC Petition and in the records of related Biennial Review proceedings to establish that most, if not all, of the "approximately two dozen regulations or categories of regulations"¹³ identified by SBC are no longer necessary in the public interest, and should be repealed or modified as mandated by section 11 of the Act. The Commission can and should accomplish this task in this proceeding, in other pending proceedings, or in proceedings it initiates in the near future.

¹¹ See Ameritech Comments, including Attachments 1&2, filed July 17, 1998 in CC Docket 98-81.

¹² See Report and Order, FCC 96-490 (rel. December 24, 1996), CC Docket 96-150.

¹³ See NPRM, ¶ 1.

Respectfully submitted,

A handwritten signature in cursive script that reads "Leander R. Valent". To the right of the signature is a circled "dx" mark.

Leander R. Valent

Michael S. Pabian

Counsel for Ameritech

9525 West Bryn Mawr, Suite 600

Rosemont, IL 60018

(847) 928-4396

Dated: January 11, 1999